

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Z-TEL COMMUNICATIONS, INC.	}	
	}	
Complainant	}	
	}	
vs.	}	Docket No. 02-0160
	}	
ILLINOIS BELL TELEPHONE COMPANY,	}	
d/b/a AMERITECH ILLINOIS	}	
	}	
Respondent	}	

**ILLINOIS BELL TELEPHONE COMPANY’S
REPLY TO Z-TEL’S BRIEF ON EXCEPTIONS**

Ameritech Illinois submits this reply to the Brief on Exceptions submitted in this proceeding by Z-Tel Communications, Inc. (“Z-Tel”).

Z-Tel, in its Brief on Exceptions, reiterates its newest prayer for relief—one which appeared for the first time in Z-Tel’s Brief on reopening concerning parity issues—“that the Commission order Ameritech to provide the necessary application-to-application software systems to make the ASON service order records available to CLECs in a way that will allow CLECs to retrieve ASON-generated service order records through Verigate.” Z-Tel Br. on Ex. at 1. Ameritech Illinois responded to this request in detail in its Reply Brief on Rehearing on the Parity Issue (at 4-10) and will not repeat those arguments in detail here. However, for the convenience of the Administrative Law Judge, the Commission and the parties, Ameritech Illinois will provide a summary of the flaws in Z-Tel’s request.

First, Z-Tel failed to raise this issue until its brief on reopening. By raising the issue so late, Z-Tel deprived Ameritech Illinois of legally sufficient notice of Z-Tel's new request for relief. This is reason enough for the Commission to deny that request. See, e.g., Alton & So. R.R. Co. v. Commerce Comm'n, 316 Ill. 625, 629-30 (1925) (relief ordered by the Commission cannot exceed that requested in the complaint itself); Peoples Gas Light & Coke Co. v. Commerce Comm'n, 221 Ill. App. 3d 1053, 1060 (1st Dist. 1991) ("If the ICC were permitted to enter an order that is broader than the written complaint filed in the case then it would be ruling on an issue of which the responding party had no notice and no opportunity to defend or address.")

Second, Z-Tel is fundamentally confused. Verigate is a Web-based system that operates through a graphical user interface (a "GUI"). As such, Verigate, by definition, is not an "application-to-application" interface at all, and Z-Tel's request simply makes no sense. Moreover, Verigate does "allow CLECs to retrieve ASON-generated service order records," as Z-Tel requests (Z-Tel Br. on Ex. at 2), via the GUI. At the same time, CLECs already have available to them two separate application-to-application interfaces (COBRA and EDI), both of which are already capable of providing the type of processing that Z-Tel seeks. These facts are clear from both Ameritech Illinois' and Z-Tel's testimony. Lawson, Am. Ill. Ex. 4.0 at 6-7; Lawson, Tr. 499-502, 520-22; Reith, Z-Tel Ex. 7.1 at 3.

Finally, Z-Tel failed to provide replacement language with its Brief on Exceptions, as required by the Commission's rules. 83 Ill. Admin. Code § 200.830(b). Therefore, the Commission should disregard Z-Tel's exceptions.

In summary, the Proposed Order is correct in declining to grant Z-Tel the relief it belatedly seeks. In fact, by finding that "the record is not adequately developed on this issue to permit us to make a determination on this request" the Proposed Order (at 5) is being far too solicitous of Z-Tel. Z-Tel's request can and should be affirmatively denied on the merits. As a result, Ameritech Illinois suggests that the following language be added to the Commission's final order on reopening, to replace the second sentence of the fourth paragraph of the proposed conclusion regarding parity.

The Commission denies Z-Tel's request that we order Ameritech Illinois to develop "application-to-application" software to enable its Verigate system to provide ASON service order records. We do so for two separate and independent reasons. First, Z-Tel's request was not timely, as it was not included in the original complaint or any amended complaint filed in this case, but instead was raised in Z-Tel's briefs after the record on reopening was closed. See, e.g., Alton & So. R.R. Co. v. Commerce Comm'n, 316 Ill. 625, 629-30 (1925) (relief ordered by the Commission cannot exceed that requested in the complaint itself); Peoples Gas Light & Coke Co. v. Commerce Comm'n, 221 Ill. App. 3d 1053, 1060 (1st Dist. 1991) ("If the ICC were permitted to enter an order that is broader than the written complaint filed in the case then it would be ruling on an issue of which the responding party had no notice and no opportunity to defend or address.") Second, Z-Tel appears to be fundamentally confused about the facts. The record makes clear that Verigate is not an application-to-application interface, but instead is a Web-based, GUI interface. Verigate does, however, provide access to ASON service order records. At the same time, CLECs can also use two application-to-application interfaces (CORBA and EDI), both of which already support the type of processing sought by Z-Tel.

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NOW THEREFORE, for the reasons provided above and in Ameritech Illinois' previous pleadings and testimony, the Commission should deny the relief sought by Z-Tel in its brief on exceptions.

Respectfully submitted,

Ameritech Illinois

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